United Nations A/HRC/39/55/Add.3

General Assembly

Distr.: General
31 August 2018

English only

Human Rights Council
Thirty-ninth session
10–28 September 2018
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on the human rights to safe drinking water and sanitation on his mission to India: comments by the State*

* Circulated in the language of submission only.

GE.18-14412(E)
1814412

Please recycle

Sl. No.	Para Nos.	Addendum to the Para/Paras
1.	8&9	The report raises concerns about the legal framework on water and sanitation, citing the need for binding legislation or regulation and legal enforcement mechanisms for water and sanitation. It may be pointed out that in India's federal structure, which comprises the federal and state governments, a body of laws and policies, including the National Water Policy stipulate that the first right is of drinking water. The states ensure implementation in conformity with them. Mo l bills and framework legislations issued in this regard by the federal government are adopted by states based on their hydro geo morphological requirements. Ten states have already enacted legislation on groundwater and many others have formulated their draft bills for enactment. A 'one size fits all' approach does not suit to a vast country. Many state governments have proactively developed enabling provisions, laws and acts which mandate the right to drinking water and sanitation services. Furthermore, with respect to sanitation, India is implementing the world's largest sanitation programme – The Swachh Bharat Mission (SBM), which focuses on behaviour change, leading to people voluntarily adopting safe sanitation practices, rather than being forced or coerced into building toilets through legislation. The program, by design, provides flexibility to states to implement the program basis local contexts. The government mainly acts as a facilitator, with the program being implemented using decentralized structures, allowing for local innovation and placing the onus on the people for its implementation.
2	10	There is a clear demarcation between rural and urban sanitation implementation in all of India's states, whereby the Panchayats and local rural local bodies implement sanitation programmes in rural areas, and Municipalities and other urban local bodies are in charge of urban sanitation. And this arrangement is same for both Imphal in Manipur and Mumbai in Maharashtra. True to the principles of cooperative federalism, India has robust national frameworks for the implementation of water and sanitation programmes, within which states have the flexibility to tweak institutional arrangements to suit local requirements and boost efficiency
3	11	India has well laid out norms of service for water and sanitation delivery which take into consideration the different needs of people related to water use. The central, state and local governments regulate service provision. Compliance is constantly monitored at all administrative levels.
4	13	The report refers to the means of achieving Open Defecation Free (ODF) by October 2019 as "installation of millions of toilets across the country, supported by the allocation of an impressive budget". India's efforts to end open defecation are fundamentally based on changing age old behaviour of millions of people. The "millions of

		toilets" are only the effect, the cause is the mass mobilization by making the program a people's movement.
5	16	SBM is an outcome-oriented programme with a primary focus on behaviour change, and is being implemented in Mission and time-bound mode. This nature of implementation in Mission mode is a major factor responsible for the immense progress made in sanitation in India within a short time since the launch of SBM in 2014. The Government of India feels that the claims of coercion to the brink of denying their right to food exercised upon the people to stop practicing open defecation have been exaggerated. There are robust mechanisms at the village, district, state and central levels to ensure that any case of coercion is immediately investigated. SBM focuses on positive behaviour change, and punitive measures are not encouraged by the program.
6	19	The report mentions about the drinking water situation but does not highlight the efforts and investments that have been made by the Government of India. Drinking water schemes are designed to ensure people have adequate water to meet all needs – drinking and for other purposes. Since 2009 alone, over $30 billion have been spent by the central and state governments towards drinking water supply. States have evolved systems to monitor availability of minimum levels of service delivery related to water supply. Many states have provisions for higher than the minimum of 40 litre per capita per day (lpcd) supply, going upto 70-120 lpcd. In fact, India is committed to SDG 6 and providing piped water supply to every household in the country.
7	21 & 22	While commending India on its sanitation achievements, the report highlights the need to ensure that this availability is leading to actual usage by individuals. The report also refers to the right of sanitation becoming a "mere counting exercise". It must be emphasized here again that the SBM is essentially a behaviour change program, centered not on construction, but change in sanitation behaviour. The main indicator used to track progress is outcome-based - Open Defecation Free (ODF) villages, rather than output-based - toilets built. Multiple independent third-party surveys have placed the usage of toilets under the SBM rural very high: 93.4% as per the National Annual Rural Sanitation Survey (NARSS), under the World Bank support project), 2017-18; 91% as per Quality Council of India, 2017; 95% as per the National Sample Survey Office(NSSO), 2016. This shows that toilets are not just being made available, but behaviours are changing and the toilets are being used. The NARSS also confirmed that over 95% of ODF verified villages were indeed ODF.
8	23	For the first time in Indian history, all Ministries and Departments of the Government of India have given top priority for sanitation and have truly made sanitation "everybody's business". All Ministries and Departments are developing sanitation facilities to ensure that people at all times and all places have access to sanitation services.

In fact the Government of India has a special program called "Swachhata Action Plan" under which all Ministries and Departments have made specific plans for sanitation in their respective sectors, and have allocated funds for it from their own budgets. Over Rs. 12,000 crore (approx. $1,85 billion) were allocated by Ministries and Departments for sanitation infrastructure and activities in 2017-18.

9	25 to 28	In rural India, insanitary latrines have been converted to sanitary latrines. The 'Prohibition of Employment as Manual Scavengers and their Rehabilitation Act', 2013 is an Act which prohibits employment of persons as manual scavengers. The perception that the lower castes have no option but to clean latrines, sewers while they themselves have to defecate in the field is misleading. The preamble of the Act has reference to Article 46 of the Constitution of India, which provides that the State shall protect the weaker sections and particularly the Scheduled Castes and the Scheduled Tribes from social injustice and all forms of exploitation. As social justice is the objective. The Act is of general nature with the principal objective to prohibit manual scavenging by all and address rehabilitation of manual scavengers. The report highlights the apparent presence of manual scavenging, and goes on to link it to caste. It is important to note that in rural India, all insanitary latrines have been identified and converted to sanitary latrines. Besides, there is strong legislation in the country towards the prohibition of manual scavenging and the rehabilitation of former manual scavengers (Prohibition of Employment as *Manual Scavengers* and their Rehabilitation *Act*, 2013). It is important to note that every reported case of manual scavenging is duly investigated and immediately acted upon on priority. India has a much evolved program to train and support people who have previously practiced manual scavenging, and help them attain alternate employment opportunities, led by the Ministry of Social Justice and Empowerment. The report also mentions that ending open defecation may aggravate discrimination, and that the twin-pit may not be properly used. However, facts on the ground do not support such assertion. A large part of communication under SBM rural is in-fact related precisely to de-stigmatizing waste management and encouraging all sections of society to participate and own the process. Senior political leaders, officers, and cultural icons have themselves engaged in emptying toilet pits in an effort to shatter any associated stigma, and State officials continue to do it from time to time.
10	29 to 33	The Ministry of Drinking Water and Sanitation (MoDWS) has well laid out norms related to distance that people have to cover in rural areas for fetching water. Isolated cases, like the example, cited in the report, are strongly dealt with. The report uses several dated data sources from paragraph 29 to 33 to draw conclusions on India's water and sanitation programmes. The report at times quotes the Joint Monitoring Program 2015 figures for sanitation coverage,

which is outdated in the case of India, as it projects the number of people defecating in the open from a trend line based on sanitation data available exclusively from the years preceding the SBM. As has been highlighted earlier, since the launch of the SBM in October 2014, sanitation coverage in rural India has increased from 39% to 90%. Quoting figures from prior to October 2014 to judge India's present level of proficiency on water and sanitation is erroneous and also misleading.

In paragraph 32, the report specifically mentions with respect to sanitation coverage in India that "there are significant discrepancies across several surveys", but mentions only the JMP 2015 figures, and the official figures as per the SBM's Integrated Management Information System (IMIS). As has been already highlighted that the JMP estimates are significantly outdated in the context of a fast moving program like SBM. The paragraph misses to highlight the robustness of the SBM's IMIS, which has a system for monitoring the sanitation status of each of over 160 million rural households in India, geo-tags each toilet with a photograph, and is available in the public domain on the SBM's website http://sbm.gov.in

Moreover, the recent National Annual Rural Sanitation Survey (NARSS), covering over 90,000 households in over 6000 villages conducted under the World Bank support project to SBM, and under the watch of experts from UNICEF, Water Aid, Bill & Melinda Gates Foundation, Ministry of Statistics and Program Implementation, etc., and as mentioned in Para 34, has found the usage of toilets in rural India to be 93.4%. They also found that the sanitation coverage was 77% (survey period November 2017 to March 2018), which was comparable to the official sanitation coverage as per the SBM MIS at the time of the survey – 76% as on January 2018. Two other independent surveys conducted by the Quality Council of India in 2017, and National Sample Survey Organization in 2016, have pegged the usage of these toilets at 91% and 95% respectively. These nationally and statically significant surveys are testament to the strength and robustness of the SBM rural MIS.

11	38, 39, 41, 43 &49	Water service delivery is regulated, implemented and monitored at appropriate levels across the country. Quality of drinking water is a high priority for the Government of India. Through the National Water Quality Sub-Mission, the Government of India aims to eliminate arsenic and fluoride contamination in a Mission mode by 2021.

Implementing agencies under various state governments are addressing the above quality issues on priority. The report commends India's measures to tackle water quality issues, and also mentions the National Water Quality Sub-Mission, through which the Government of India aims to eliminate arsenic and fluoride contamination in India by 2021. However, the report still uses dated data sources to highlight the extent of the water contamination. As in Para 39, the report uses data from 2011 to put a number on

people in India living in areas with water quality issues.

There have been three recent studies which have attempted to establish the health and economic gains from improved sanitation in India under the SBM, which form a good proxy for reduction in faecal contamination as well. The WHO released a study in August 2018 that showed that the SBM-G will have prevented over 3 lakh diarrhoeal deaths, and averted over 1.4 crore Disability Adjusted Life Years (DALYs) by 2019. The study mentions that the benefits may be even higher if the positive impact of the sanitation infrastructure on quality of groundwater and other associated benefits were considered. UNICEF in mid-2017 estimated that each household in ODF villages in India is saving an average of Rs.50,000 per year due to avoided health costs, lives saved and time saved. A study by Bill & Melinda Gates Foundation in 2017 found that there is a 30% reduction in incidence of diarrhoea, among children in ODF areas in India as compared to non-ODF ones. These studies show that the sanitation facilities in India are largely hygienic and safe, and are also reducing faecal contamination of water.

12	51	The report indicates that some states are not allocating budget for Information, Education and Communication (IEC) activities. As per the SBM guidelines, 8% of the total budget is allocated to IEC activities, of which 3% is allocated at the centre and 5% is allocated at the state. Thus, all states allocate 5% of their budgets for IEC. Most states are also successful in securing additional funds for behaviour change communication through organizations like World Bank, UNICEF etc., as well as corporates through the Corporate Social Responsibility (CSR).
13	52	The report quotes a Water Aid assessment of mere 1024 households in 16 out of India's 700 districts, to suggest that usage of toilets in India may start to decrease, when the assessment report itself does not even mention the word 'usage'. It may be noted that this was denied by Water Aid in a letter to the Ministry of Drinking Water and Sanitation, in which they said "Our study has been quoted in the context of 'toilet usage' which was never an objective or outcome of our study".
14	55 to 71	India's water and sanitation programs focus on covering all citizens, and lays special emphasis on ensuring that economically and socially backward sections have access on priority. The SBM guidelines particularly stipulate that toilet incentive is to be given to marginalized sections of society, including the people living below poverty line, Scheduled Castes/Scheduled Tribes, persons with disability, widows/old age pensioners, landless labourers with homestead, small and marginal farmers and women headed households. The Government finds the section on Scheduled Castes as being particularly insensitive. In paragraph 60, the report states that- "more than 20 per cent of Dalits still do not

have access to safe drinking water and about 50 per cent of Dalit villages are denied access to water sources". The source quoted for this information, however, itself gets the data form a study done in the year 2000 (Action Aid 2000), and was published in 2006.

The assertions made in this section are unfounded, unrelated to sanitation and insensitive to the weaker sections. The condescending comments on issues like caste are misleading and ignores the years of social inclusion measures taken by successive governments. It goes against the founding principles of the country and reflect a poor understanding of the social context of the nation.